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Situation of human rights in Myanmar

Report of the Secretary-General

Summary

The present report provides details on the good offices efforts undertaken by the Secretary-General aimed at facilitating national reconciliation and democratization in Myanmar, in accordance with General Assembly resolution 60/233 of 23 December 2005.

During the reporting period, efforts were made by the United Nations to re-engage with the Myanmar authorities after no high-level contacts for nearly two years. Engagement at the appropriate senior level was considered critical if the Secretary-General was to exercise his good offices, especially after the resignation of his Special Envoy in January 2006.

A series of discussions with the Government of Myanmar, through its Permanent Mission in New York, led to the visit to Myanmar by the Under-Secretary-General for Political Affairs in May 2006. The mission led by the Under-Secretary-General met with relevant stakeholders and raised issues of concern to the United Nations directly with the top leadership of the Government of Myanmar. Some developments have taken place as a follow-up to the mission. However, more tangible progress is needed, as a genuine process of democratization and national reconciliation has yet to be launched. While the Government's announcement that the National Convention would resume on 10 October 2006 is encouraging, there has been no indication to date that the process will be broadened to include representatives from the National League for Democracy and certain ethnic nationality political groups, or that the process will be altered so as to allow more meaningful involvement by participants. There is also concern over the slow pace and lack of inclusiveness of the road map process, as nearly three years have elapsed since its announcement and no clear outcome is yet in sight.

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The Secretary-General renews his call upon the Myanmar authorities to establish a substantive dialogue with the representatives of all ethnic nationality groups and political leaders. Such a dialogue should commence as soon as possible, starting with certain confidence-building measures, such as the release of a substantial number of political prisoners, the lifting of the remaining constraints on all political leaders, the reopening of offices of the National League for Democracy, and the inclusion of opposition and certain ethnic nationality groups in the ongoing road map process. If progress is made, the Secretary-General reiterates his readiness to help mobilize international assistance in supporting national reconciliation efforts so that the people of Myanmar can partake in the same benefits of economic, social and political development as those enjoyed in neighbouring countries.

I. Introduction

1. The present report is submitted pursuant to paragraph 5 of General Assembly resolution 60/233 of 23 December 2005, in which the Assembly requested the Secretary-General, inter alia, to continue to provide his good offices and to pursue his discussions on the situation of human rights and the restoration of democracy with the Government and people of Myanmar, including with all relevant parties to the national reconciliation process in Myanmar, to offer technical assistance to the Government in that regard, and to report to the Assembly at its sixty-first session, and to the Commission on Human Rights at its sixty-second session, on the progress made in the implementation of that resolution.

2. As reported previously, the Secretary-General's good offices efforts have encountered considerable difficulties since the removal of the former Prime Minister, General Khin Nyunt, and his associates in the fourth quarter of 2004, which resulted in a significant reduction of political contacts between the United Nations and the Myanmar authorities. Having been unable to visit Myanmar since March 2004, the Secretary-General's former Special Envoy, Razali Ismail, stepped down in January 2006. The Special Rapporteur for the human rights situation in Myanmar, Paulo Pinheiro, has also been denied access to the country since November 2003. Consequently, political discussions with the Government of Myanmar were held only outside the country and on limited occasions between 2004 and early 2006.

3. Against that background, efforts were made to re-engage the Myanmar authorities. Discussions between the United Nations and the Government of Myanmar continued through its Permanent Mission in New York with a view to finding ways and means to re-establish high-level contacts. As a result of the discussions, the Under-Secretary-General for Political Affairs was invited by the Minister for Foreign Affairs, U Nyan Win, to visit Myanmar. The Under-Secretary-General visited Yangon and Nay Pyi Taw, the country's new administrative centre, from 18 to 20 May 2006.

4. The main objective of the Under-Secretary-General's mission, undertaken within the context of the good offices mandate entrusted to the Secretary-General by the General Assembly, was to meet the top leadership and relevant stakeholders and to assess the situation first-hand in order to see what more could be done to help Myanmar move in the direction of all-inclusive democracy, sustainable development and national reconciliation. Additionally, since the overall operating environment for the United Nations and other assistance agencies had become more restrictive over the previous year, the mission sought to address the issue of unhindered access for the delivery of humanitarian assistance to the people of Myanmar.

5. During his visit, the Under-Secretary-General met with the Chairman of the State Peace and Development Council, Senior General Than Shwe, and other government leaders, senior officials of the National Unity Party, as well as Daw Aung San Suu Kyi and the leaders of the National League for Democracy (NLD). The mission was not able, regrettably, to meet with the representatives of ethnic nationality groups.

II. Content of the discussions

6. In meetings with the various interlocutors, the mission reiterated the Secretary-General's commitment to continuing his good offices role and, to that end, emphasized the need to maintain a constructive dialogue in moving the democratization and national reconciliation process forward. The effort of the United Nations to re-engage with the Myanmar leaders and to begin constructive dialogue was generally well received, as Senior General Than Shwe invited the Under-Secretary-General to return to Myanmar later in 2006.

7. The mission encouraged Myanmar's leadership at the highest level to take specific steps to make the National Convention process all-inclusive and meaningful. The lifting of the remaining constraints on political leaders, including Daw Aung San Suu Kyi, and the reopening of the offices of the NLD were suggested as specific steps that could be taken in that direction. In a meeting with the Under-Secretary-General, Daw Aung San Suu Kyi welcomed the continuation of United Nations efforts aimed at facilitating national reconciliation and democratization in Myanmar. On the eve of the expiration on 27 May 2006 of her term of house arrest, the Secretary-General appealed to the Myanmar senior leadership to release Daw Aung San Suu Kyi. The Secretary-General was therefore disappointed by the decision of the Government to extend her house arrest by another year, and commented that Myanmar's leadership had missed a significant opportunity to confirm, through concrete actions, its expressed commitment to move towards true national reconciliation and all-inclusive democracy. Although on 6 June 2006 a prisoner whose release the Under-Secretary-General had requested, Ssu Ssu Nway, was set free, as at the end of August 2006, the number of political prisoners in Myanmar was estimated at 1,185.

8. The mission raised with the Government the situation in Kayin State, where to date an estimated 20,000 persons have reportedly been displaced, and over 5,000 have reportedly fled to Thailand, as a result of the intensive military campaigns against ethnic insurgency groups since the beginning of 2006, raising concerns that military operations and associated human rights abuses could pose a serious danger to ethnic nationalities in eastern Myanmar.

9. While there has been some forward movement with regard to clarifying the restrictive guidelines for humanitarian assistance introduced by the Government earlier in 2006, further progress through dialogue between United Nations agencies and the relevant authorities is needed to overcome remaining difficulties. Similarly, there is a need for tangible progress to ensure unhindered access for humanitarian personnel to areas of greatest need. It is hoped that the Government will respond positively to the request by the Office of the United Nations High Commissioner for Refugees on 14 August 2006 for a United Nations inter-agency assessment of the humanitarian needs in conflict-affected areas.

10. Political parties, in particular the NLD, continue to be subjected to severe restrictions and scrutiny. Despite assurances given to the mission by government interlocutors that the NLD remained a legal political party, there are reports of an increased campaign directed against it in the government press. Despite the mission's requests to allow the NLD to function openly throughout the country, only the Yangon headquarters of the party is currently open. Meanwhile, the Union Solidarity and Development Association, a mass organization created by the State

Peace and Development Council, recently announced its intention to become a political party and contest the next election.

11. Regrettably, the National Convention, which last met from 5 December 2005 to 31 January 2006, did not include representatives from either the NLD or several ethnic nationality political parties, including the Shan Nationalities League for Democracy, which won the second largest number of seats in the 1990 elections. While the Government's announcement that the Convention was due to resume on 10 October 2006 is encouraging, there has been no indication that the process would be broadened to include the representatives of the NLD and certain ethnic nationality political parties.

12. As reported by the Special Rapporteur on the situation of human rights in Myanmar, confidence of some ethnic groups in the Government's commitment to the national reconciliation process has been diminished by the very severe sentences handed down to a number of Shan leaders in November 2005. The Special Rapporteur noted that unless the Government addressed ethnic concerns, including allegations of serious rights violations committed against ethnic communities and the imprisonment of ethnic leaders, there was a risk that the fragile ceasefire agreements between the two sides could unravel.

13. Concern has also been expressed over the slow pace of the road map process, as nearly three years have elapsed since its announcement and no clear outcome of the process is yet in sight. The more clarity there is about the time frame and modalities of the road map, the more credible the process will be to all stakeholders in Myanmar. The Secretary-General hopes that all parties will work towards achieving an open, inclusive and participatory process.

14. It is a source of regret that the Special Rapporteur on the situation of human rights in Myanmar has been denied access to the country for almost three years. The Secretary-General hopes that the Special Rapporteur will be able to fulfil his United Nations mandate and visit the country in the near future as part of Myanmar's cooperation with the Human Rights Council.

III. Observations

15. Democratization and national reconciliation are inevitably long-term processes that cannot be expected to yield results immediately. The Secretary-General's good offices role is to continue to explore fully with the Government of Myanmar and other stakeholders any openings that may exist and to seek opportunities where progress may be possible.

16. The Secretary-General thus reiterates his call upon the Myanmar authorities to take the necessary steps to make reform efforts more inclusive and credible when the National Convention resumes later in 2006 and in subsequent phases of the road map process, including the drafting of a constitution and the holding of a national referendum. Such steps should commence as soon as possible, starting with certain confidence-building measures, such as the release of a substantial number of political prisoners, the lifting of the remaining constraints on all political leaders, the reopening of the offices of the NLD and provisions for the meaningful participation of all stakeholders in the ongoing road map process. If progress is made, the Secretary-General reiterates his readiness to help mobilize necessary

international assistance in supporting national reconciliation efforts so that the people of Myanmar can partake in the same benefits of economic, social and political development as those enjoyed in neighbouring countries.

17. The Secretary-General further calls upon countries of the region, particularly China, India and States members of the Association of Southeast Asian Nations, to continue to encourage and accelerate the pace of political, economic and socio-humanitarian reform in Myanmar. Finally, in the light of the decision taken by the Security Council on 15 September 2006 to include Myanmar on its agenda, the Secretary-General is confident that he will be able to rely on the full support of the Council in the implementation of the good offices mandate given to him by the General Assembly.

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